

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

PERVIS T. PAYNE,

Plaintiff,

v

PHIL BREDESEN, et al.,

Defendants.

No. 3:07-CV-0714

Death Penalty Case

Judge Haynes

ORDER

Based upon the
pending Harbison action, this
action is ADMINISTRATIVELY
CLOSED and may be reopened
upon motion of
either party
upon the
conclusion
of the
parallel
Harbison
action.

NOTICE OF ONGOING PROCEEDINGS IN
HARBISON LETHAL INJECTION CHALLENGE, M.D.Tenn.No. 3:06-1206

This Court has stayed proceedings pending an ultimate decision in Harbison v. Little, M.D.Tenn.No. 3:06-1206. See R. 16. After a decision by the Sixth Circuit (Harbison v. Little, 571 F.3d 531 (6th Cir. 2009)), Harbison has just been remanded to the District Court. See Harbison v. Little, No. 07-6225 (6th Cir. June 1, 2010)(issuing mandate).

In Harbison, Judge Trauger is now considering additional matters, including matters showing that during the execution of Steve Henley in 2009, Henley was not properly anesthetized and suffered excruciating pain while conscious. See e.g., Harbison v. Ray, M.D.Tenn.No. 3:06-1206, R. 169 (Motion To Amend Complaint & Second Amended Complaint)(filed June 1, 2010)(attached as Exhibits 1 & 2.). See also Harbison, R. 169, Attachments A, B, B2, C, D & E (attached as Exhibits 3-8 to this notice); Id., R. 170 (Index of additional attachments to Harbison's Second Amended Complaint)(attached as Exhibit 9 to this notice) & Attachments F, F2, G, H, I, J, K & L (attached as Exhibits 10-17 to this notice).

Given these ongoing proceedings in Harbison, this Court should continue its stay of proceedings here. As Plaintiff has noted in a contemporaneously-filed motion to amend, should the